

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis 1)

Date of mailing 16 May 2005 (16-05-2005)
(day/month/year)

Applicant's or agent's file reference
2388-108

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/CA2005/000353

International filing date (day/month/year)
08 March 2005 (08-03-2005)

Priority date (day/month/year)
25 March 2004 (25-03-2004)

International Patent Classification (IPC) or both national classification and IPC
IPC⁷: **A61H 1/00**, A61H 23/02, A61F 5/00

Applicant
KHAN, ASLAM (DR.) ET AL.

1. This opinion contains indications relating to the following items :

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis 1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2 FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66 1bis(b) that written opinions of this International Searching Authority will not be so considered

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later

For further options, see Form PCT/ISA/220

3 For further details, see notes to Form PCT/ISA/220

Name and mailing address of the ISA/CA
Canadian Intellectual Property Office
Place du Portage I, C114 - 1st Floor, Box PCT
50 Victoria Street
Gatineau, Quebec K1A 0C9
Facsimile No : 001(819)953-2476

Date of completion of this opinion
19 March 2005 (19-03-2005)

Authorized officer
Tanya Hanham (819) 953-4506

Box No. I **Basis of this opinion**

1. With regard to the **language**, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of :

a. type of material

- ☐ a sequence listing
- ☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
- ☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
- ☐ filed together with the international application in electronic form
- ☐ furnished subsequently to this Authority for the purposes of search.

3 ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statement that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4 Additional comments :

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>1 - 18</u>	YES
	Claims <u>NONE</u>	NO
Inventive step (IS)	Claims <u>1 - 18</u>	YES
	Claims <u>NONE</u>	NO
Industrial applicability (IA)	Claims <u>1 - 18</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations :

D1: CA2206889 (ELLIOT) 18 July 1996 (18-07-1996)

Novelty (N)

The published document D1 is regarded as being the closest prior art and discloses a spinal adjusting instrument. The instrument comprises a hand held portion with a moveable stylus at one end, a stylus driving apparatus, a display array to indicate proper alignment of the hand held portion and a fixed controller portion is used to program the proper alignment of and energy to be applied via the stylus in the hand held portion. The subject matter of the claims differs from D1 in that the claimed invention comprises a stand with multiple degrees of freedom, the stylus is collapsible and the impulse waveform is sinusoidal. Consequently, the subject matter of claims 1 - 18 is novel in respect of the prior art as defined in the regulations (PCT Rule 64) and thus meets the requirements of PCT Article 33(2).

Inventive Step (IS)

The present application is considered as involving an inventive step (PCT Article 33(3)) because D1 does not disclose any incentive in the direction of the invention.

Industrial Applicability (IA)

The subject matter of claims 1 - 18 is considered to be industrially applicable and thus fulfills the requirements of PCT Article 33(4).

Box No. VII **Certain defects in the international application**

The following defects in the form or contents of the international application have been noted :

The abstract does not comply with Rule 8.1(d) of the Patent Cooperation Treaty Regulations. Each technical feature mentioned in the abstract and illustrated by a drawing in the international application shall be followed by a reference sign, placed between parenthesis.

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made :

Claims 1, 6, 10, 14 do not comply with PCT Article 6 The claims contain the following terms which lack antecedents:

“said probe” (claim 1 line 22)

“said microprocessor” (claim 6 line 23)

“said probe” (claim 10 line 11)

“said microprocessor” (claim 14 line 2)